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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Lahcen Bennai

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11/21/2006

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EXAMINER

MURPHY, RHONDA L

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,298

Applicant(s)

BENNAI ET AL.

Examiner

Rhonda Murphy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 10/25/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7 and 8 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This communication is responsive to the amendment filed on 10/25/06. Accordingly, claim 6 has been previously canceled and claims 1-5 and 7-10 are currently pending in this application. The 35 USC 112, 1st paragraph rejection has been withdrawn for claims 9 and 10.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al. (US/5,978,380).

Regarding claim 7, Kobayashi teaches a method of communication in which: at least two accesses (Fig. 10, physical cables 30a and 30b) are used between two exchanges (Fig. 10, elements within the enclosed unit represents the exchange; shown in detail in Fig. 1, exchanges 3 and 4) each access having a plurality of information channels for transmitting voice and data (Fig. 1, speech channels 1; col. 2, lines 17-21), said method further comprising: providing a common signaling channel for transmitting signaling signals relating to at least one of (i) data to be transmitted and (ii) said accesses (col. 2, lines 17-21; further described in col. 11, lines 17-32), sharing on said common signaling

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channel signaling signals relating to at least said two accesses (col. 2, lines 17-21; col. 11, lines 15-32), and managing the two accesses using the signaling signals delivered by said common signaling channel (col. 11, lines 15-21).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3, 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (US 5,978,380) in view of Kato (US 6,683,880).

Regarding claim 1, Kobayashi teaches a communication method using a first access (Fig. 10; physical cable 30a) providing a plurality of information channels including one

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information channel for transmitting voice and first data and having at least one signaling channel for transmitting signaling signals and second data relating to at least one of said access and said first data (col. 2, lines 17-21), said method further comprising the step of providing at least one additional signaling channel in a signaling path of a second access (physical cable 30b) which also provides a plurality of information channels (col. 11, lines 15-21), said additional signaling channel being on a different physical medium from said first signaling channel and for use in conjunction with said one information channel (refer to Fig. 10; physical cables 30a and 30b; further described in col. 14, lines 56-62). Additionally, it would have been obvious to one skilled in the art to provide another signaling channel on a different type of physical medium, since various types of physical media are used in communication systems and depending on the available resources, a different type of medium will provide a more sufficient means of communication.

Kobayashi further teaches priority channels (col. 10, lines 62-64), however fails to explicitly disclose determining an order of priority of the use of the signaling channels and assigning the highest priority functional signaling channel to the first access.

However, Kato teaches determining an order of priority of the use of the signaling channels, and assigning the highest priority functional signaling channel to the first access (col. 5, lines 38-47; col. 6, lines 17-20).

In view of this, it would have been obvious to one skilled in the art to modify Kobayashi's method by incorporating Kato's teaching of priority levels for the signaling

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channels, so as to provide an order in which the signaling channels are used and further improve reliability of the connecting service (col. 6, lines 21-23).

Regarding claim 2, Kobayashi further teaches an information channel for transmitting voice and first data on a different physical medium from at least one of the signaling channels (col. 2, lines 17-21; col. 14, lines 56-62; Since the signaling channel that supports the information channel is located on a different physical medium, the information channel is therefore, on a different physical medium from the signaling channel).

Regarding claim 3, the combined method of Kobayashi and Kato teach a communication method including one information channel for transmitting voice and first data and having at least one signaling channel, for which an order of priority is determined for the signaling channel.

Kobayashi and Kato fail to explicitly disclose regularly testing a highest priority signaling channel when the highest priority signaling channel is not in service.

However, official notice is taken of testing a signaling channel when the channel is not in service. It is known in the art that if a channel is determined to be not in service, a test must have been performed in order to conclude the channel inoperative.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to perform a test on the channel, thus providing reliability since transmission would not occur if the channel were inoperative.

Regarding claims 5 and 8, the combined method of Kobayashi and Kato teach a communication method including a plurality of information channels for transmitting voice and first data.

Kobayashi and Kim fail to explicitly disclose each access providing thirty information channels.

However, official notice is taken that accesses support thirty information channels. It is known in the art that primary rate access (PRA) – the international version of primary rate interface (PRI) – supports thirty information channels).

In view of this, it would have been obvious for Kobayashi and Kato's method to incorporate accesses including thirty information channels for the purpose of supporting thirty voice and data channels.

Allowable Subject Matter

1. Claim 4 is allowed.
2. Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

3. Applicant's arguments filed 10/25/06 have been fully considered but they are not persuasive. Applicant argues Kobayashi fails to disclose a common signaling channel shared by two different accesses and states Kobayashi teaches a common signaling

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channel that is moved from cable 30a to cable 30b. However, Examiner respectfully disagrees. Applicant is directed to Figure 10 and the cited passage (col. 11, lines 15-32), which teaches a common signaling channel between two different accesses (cables 30a and 30b). More specifically, column 11, lines 18-22 describe the ATM switch connecting device 13 and device 15b to each other *while keeping* device 13 connected to device 15a. Kobayashi further describes in column 11, lines 24-32 the common signaling channel in both cable 30a and 30b as already established.

Therefore, Kobayashi teaches two separate common signaling channels, one signaling channel within cable 30a and one signaling channel within cable 30b, each connected to device 13, for sharing channel capacity. Furthermore, with Kobayashi's teaching of two different accesses sharing a separate common signaling channel, the Kato reference is combined to disclose determining an order of priority of the use of the signaling channels and assigning the highest priority functional signaling channel to the access. Applicant argues one skilled in the art would not be motivated to combine the references since there is nothing that would have suggested having two different common signaling channels. However, as mentioned above, Kobayashi teaches two separate common signaling channels and Examiner believes one skilled in the art would be motivated to include priority levels for the signaling channels, so as to provide an order in which the signaling channels are used and further improve reliability of the connecting service. The claims as written still reads upon the cited references and the rejection has been maintained.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda Murphy whose telephone number is (571) 272-3185. The examiner can normally be reached on Monday - Friday 8:00 - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

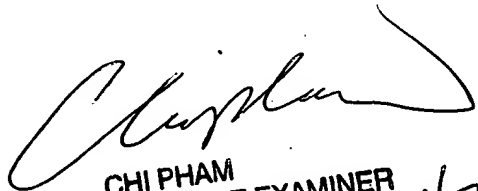
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rhonda Murphy
Examiner
Art Unit 2616

RM


CHI PHAM
SUPERVISORY PATENT EXAMINER 11/17/06